

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Robert Johnson,

Civ. No. 10-4056 (RHK/TNL)

Plaintiff,

ORDER

v.

Seth Snedden, *et al.*,

Defendants.

This matter is before the Court on Plaintiff's letter request (Doc. No. 23) to submit additional evidence – namely, an X-ray report – into the record in connection with Defendants' Motion for Summary Judgment. Defendants have objected to the request (Doc. No. 25), asserting that Plaintiff has not proffered a sufficient reason for his delay in submitting the report.

There does not appear to be any dispute, however, that Defendants have long been aware of the existence of the report. Indeed, defense counsel questioned Plaintiff about the report during his deposition, which was submitted in its entirety to the Court in connection with the pending summary-judgment Motion. (See Hayes Aff. (Doc. No. 17), Ex. 1.) Hence, while the report itself was not in the record when the Motion was briefed and argued, its *contents* were. Moreover, Plaintiff discussed those contents in his Memorandum in Opposition to Defendants' Motion. (See Doc. No. 19 at 9, 18.) The Court, therefore, perceives no prejudice Defendants would suffer by adding the

report to the record. Even if its submission is untimely, it is appropriately considered at this juncture. See Fed. R. Civ. P. 61 (“At every stage of the proceeding, the court must disregard all errors and defects that do not affect any party’s substantial rights.”).

Based on the foregoing, and all the files, records, and proceedings herein, **IT IS ORDERED** that Plaintiff’s letter request (Doc. No. 23) to submit additional evidence is **GRANTED**.

Dated: January 19, 2012

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge